

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

| | | |
|-------------------------|---|--------------------|
| EDNA COLEMAN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | No. 4:08CV1660 AGF |
| |) | |
| AMERICAN HOME ASSURANCE |) | |
| COMPANY, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

This matter is before the Court¹ on Defendants' Motion to Dismiss. Plaintiff filed this action in state court for equitable garnishment based upon a default judgment entered in state court against Defendant Laidlaw Transit, Inc. Defendants removed the action to this Court. It is undisputed that on January 5, 2010, the underlying default judgment was vacated by the state court. Plaintiff argues that because she plans to appeal the state court decision vacating the default judgment, this Court should not dismiss the present action. This argument is without merit. The fact remains that there is no longer a basis for Plaintiff's present action.

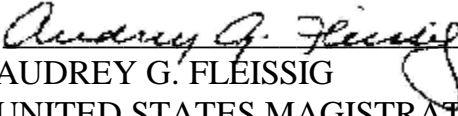
Accordingly,

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss is **GRANTED**.

[Doc. #49]

¹ The parties have consented to the exercise of authority by the undersigned United States Magistrate Judge under 28 U.S.C. § 636(c).

A separate Order of Dismissal shall accompany this Memorandum and Order.


AUDREY G. FLEISSIG
UNITED STATES MAGISTRATE JUDGE

Dated this 2nd day of February, 2010.